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Letter dated 30 June 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached fifth report from China submitted pursuant to paragraph 6 of resolution 1373 (2001), as well as China's response to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 28 June 2006 from the Permanent Representative of China to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In response to the letter dated 30 March 2006 from the Chairman of the Counter-Terrorism Committee, I have the honour to submit the fifth report of China pursuant to paragraph 6 of Security Council resolution 1373 (2001). The report also includes a section on China's implementation of Security Council resolution 1624 (2005) (see enclosure).

(*Signed*) **Wang** Guangya
Ambassador
Permanent Representative of China to the United Nations

Enclosure*

[Original: Chinese]

Fifth report by China on the implementation of Security Council resolution 1373 (2001)

June 2006

1. Implementation measures

Prevention and suppression of the financing of terrorist acts

1.1 Pursuant to paragraph 1(a) of resolution 1373 (2001), Member States should impose legal obligations requiring financial institutions, lawyers, real estate brokers, accountants, notaries and other professional intermediaries engaged in brokering activities to report suspicious transactions to the relevant authorities. China states in its fourth report (p. 11) that in order to combat money-laundering activities even more effectively, the Standing Committee of the National People's Congress has begun the work of drafting anti money-laundering legislation that will require professional intermediaries to report suspicious transactions. The Committee would appreciate a progress report on this matter and a copy of any newly adopted counter-terrorism legislation. Could China explain to the Committee the main changes made or envisaged through this reform?

The draft of the Law of the People's Republic of China on Anti-Money Laundering was completed in November 2005 and first deliberated by the Standing Committee of the 10th National People's Congress at its 21st meeting on 26 April, 2006. Chapter Three of the draft Law, on anti-money laundering obligations of financial institutions and certain non-financial institutions, requires financial and certain non-financial institutions to report suspicious transactions to financial intelligence units. Non-financial institutions in this category include specialized intermediary agencies such as real estate sales agencies, agencies engaged in precious-metal and jewellery transactions, auction agencies, pawn shops, law firms and accounting firms.

1.2 The Committee is aware of China's efforts to bring its criminal legislation into conformity with its international commitments in the area of counter-terrorism and would welcome a progress report on the draft law on combating terrorism of the Macao Special Administrative Region (SAR) (fourth report, p.12), including a copy of the new law if it has been adopted. Could China explain the main changes made or envisaged through this reform?

As stated in China's previous report, two new laws on terrorism and money laundering were being drafted by the Macao SAR in order to bring the Region's criminal legislation into conformity with China's international commitments in the area of counter-terrorism. In March 2006, both were approved and enacted as laws by the Legislative Assembly of the Macao SAR. However, as further implementing legislation was required, the legislative process was completed in April 2006 by

* Annexes are on file with the Secretariat and are available for consultation.

means of the adoption of an administrative regulation. Both laws take due account of the Macao SAR legal system, especially regarding the fundamental rights and freedoms guaranteed by the Basic Law.

Specifically, Law 3/2006 of 30 March 2006 is a new criminal law on the prevention and suppression of crimes of terrorism. Being a special criminal law, it takes precedence over ordinary criminal law, which nevertheless is still applicable supplementarily when not expressly repealed.

In fact, the core elements of Law 3/2006 are its redefinition of the criminal offences of terrorist organizations and of individual acts of terrorism provided for in articles 289 and 290 of the Macao Criminal Code (which were entirely repealed and superseded by articles 4 and 6 of the new law), and its definition of three new particular types of related activities, namely, those of "other terrorist organizations", "financing of terrorism", and "incitement to terrorism", as separate criminal offences, provided for and punished in articles 5, 7 and 8 of the new law, respectively.

Thus, from an international perspective, the most relevant features of this new law are the explicit inclusion of the transnational element in the specific motivation of the legal category of the "other terrorist organizations" offence, and implicitly in regard to individual acts of terrorism, by means of expressly establishing a possibility of correlation between the specific motivation of both types of criminal conduct, the reassertion of extra-territorial jurisdiction rules (article 3) and the introduction of liability for legal entities in regard to all the mentioned criminal offences (article 10).

Although the "terrorist organization" offence was defined as "any association of two or more persons acting in concert to impede, alter or subvert, by means of violence, the functioning of the political, economic or social system of the Macao SAR, to compel a public authority to do or to refrain from doing any act or to tolerate it, or to intimidate certain persons, group of persons or the population in general", and still operates with reference to the commission of other typified offences expressly listed in the same provision, it is important to stress that the list of those offences has been enlarged and their definition ameliorated. Also worth mentioning is the fact that the new criminal offence of "other terrorist organizations" is conceptually formulated in terms of protecting the integrity, independence and important interests of other States, regions and international public organizations.

Furthermore, the offence of financing of terrorism is defined as making available or collecting "funds with the purpose of financing, totally or partially, the commission of terrorism", without distinction of the nature of the terrorism. Some preventive measures to counter the financing of terrorism were also set up, by means of establishing in article 11 an operative reference to some of the provisions of the other new special criminal law on money laundering mentioned above (please see response to 1.4).

Unless otherwise specified under applicable international conventions, extra-territorial jurisdiction can be exercised in regard to criminal offences committed against other States and international public organizations whenever the perpetrator is found in the Macao SAR and it is not possible to surrender him to another territory or State.

Effective penalties range from imprisonment terms of 10 to 20 years for acts committed in support of terrorist organizations, and of 3 to 12 years (or with the penalty for the committed crime aggravated by one third in its minimum and maximum limits if that penalty is equal to or greater than 3 to 12 years' imprisonment) for individual acts of terrorism. The penalty for leading a terrorist organization is imprisonment of 12 to 20 years. If a terrorist organization and/or individuals who establish, direct, are members of, or support it, is/are found to be in possession of certain means, as for example nuclear energy, or weapons (conventional and/or of mass destruction), the penalty is also aggravated by one third in its minimum and maximum limits. Preparatory acts for the constitution of terrorist organizations and of individual acts of terrorism are also covered, being punished by effective imprisonment of 1 to 8 years and of 1 to 5 years respectively. Under the general provisions of the Criminal Code, aiding and abetting the commission of these offences are also punishable (articles 286, 26, 27 and 22 respectively).

Penalties for financing terrorism and incitement to terrorism are imprisonment terms of 1 to 8 years. However, if in certain cases, it is possible to subsume support of the terrorist organization and/or of other terrorist organizations (or even aiding and abetting) under the financing of terrorism, the applicable penalty may correspond to that those provided for such criminal offences if it exceeds 1 to 8 years.

For further details and as expressly requested by the Committee, a copy of Macao SAR Law 3/2006 in its official versions in Chinese and Portuguese languages as well as a non-official translation into English is attached hereto (annex 1).

1.3 The Committee would also like to receive an update on the status of the Hong Kong SAR's draft United Nations (Anti-Terrorism Measures) Ordinance (fourth report, p. 5), including a copy of the new law if it has been adopted. Could China explain the main changes made or envisaged through this new legislation?

The United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 (the Amendment Ordinance) was enacted in the Hong Kong SAR in July 2004. It amended the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) to make additional provisions to cover the following:

Freezing non-financial property of terrorists and terrorist organizations

Paragraph 1(c) of United Nations Security Council resolution 1373 (2001) and the Financial Action Task Force on Money Laundering Special Recommendation III require freezing of funds and other assets of terrorists, terrorist associates and those who finance terrorism. The Amendment Ordinance extends the power of the Secretary for Security of the Hong Kong SAR to freeze terrorist funds under section 6 of Cap. 575 to cover non-financial terrorist property, and empowers the Secretary for Security to authorize seizure of the frozen property to prevent it from being removed from Hong Kong.

Law enforcement powers

To facilitate effective investigation into offences under Cap. 575, the Amendment Ordinance empowers law enforcement agencies in Hong Kong to require relevant persons to furnish information or to produce materials, to search premises and seize relevant materials, and to exchange relevant information with their overseas counterparts.

Implementation of the International Convention for the Suppression of Terrorist Bombings (the Bombings Convention), the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (the Maritime Safety Convention) and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (the Fixed Platform Protocol) in Hong Kong

The amended Ordinance implements the Bombings Convention, the Maritime Safety Convention and the Fixed Platform Protocol in the Hong Kong SAR by designating as criminal offences terrorist-type attacks by means of explosives or other lethal devices and terrorist acts endangering the safety of maritime navigation and of fixed platforms, and by establishing extra-territorial jurisdiction over these offences.

1.4 In its second report (p. 8), China stated that the Government of the Macao SAR was considering whether the obligation to report the suspected diversion, conversion and concealment of illegal property should be extended to other professionals such as accountants, auditors, notaries and lawyers. What steps has the Macao SAR taken in that regard?

In this specific regard, and as noted above, another new special criminal law, Law 2/2006 of 23 March 2006 on the prevention and suppression of the crime of money laundering, was adopted in the Macao SAR. This law repealed the existing legislation on money laundering, namely Decree-Law 24/98/M, and the provisions on money laundering contained in Law 6/97/M, on organized crime. Nevertheless, as mentioned, parts of this new law are applicable, mutatis mutandis, in regard to the financing of terrorism, and this law was complemented by Administrative Regulation 7/2006. Until the entry into force of that Regulation, which will take place 180 days following its publication on 15 May 2006, Decree-Law 24/98/M is applicable transitionally.

Law 2/2006 not only extends the obligation to report transactions that may indicate money laundering to several other professions (entities and persons), such as lawyers, solicitors, notaries and public-registry officers, auditors, accountants and tax consultants, but also to transactions that may indicate the financing of terrorism. Likewise, by means of the aforementioned operative reference to this law contained in article 11 of Law 3/2006, all the existing new obligations regarding money laundering, such as those of customer and transaction identification, transaction refusal, record keeping, reporting suspicious operations, and collaboration with the authorities, were extended to the financing of terrorism (articles 6 and 7).

The obligations referred to are regulated in detail in accordance with article 8 (1) of this law by Administrative Regulation 7/2006, which also establishes the penalties for their violation and the necessary supervision.

Under this Administrative Regulation, the entities and persons subject to the obligations stipulated in the law are supervised by different authorities according to their type and nature. Those authorities are listed and it is within their competence to systematize the procedures for compliance with the obligations referred to through the issuance of guidelines. They must also inform the Prosecutor whenever they suspect the existence of money laundering and financing of terrorism.

Law 2/2006 defines the offence of money laundering as the conversion or transfer of advantages, or the assistance or facilitation of any such operation, for the purpose of disguising its illicit origin or of preventing the main perpetrator or participant in such crimes from being prosecuted or submitted to a criminal sanction, and the concealment or disguise of the true nature, source, location, disposition, movement, or ownership of such advantages, the notion of advantages being defined for the purpose of the law as "the assets derived from the commission, through any form of participation, of a typified act punishable with a penalty of imprisonment of a maximum term above 3 years, as well as any assets obtained therefrom" (article 3(1), (2) and (3)).

The effective penalty for the offence of money laundering is an imprisonment term of 2 to 8 years. Penalties aggravated by one half in their minimum and maximum limits are provided for cases in which: (i) the offence is committed by organized crime associations/secret societies or by persons who are members or supporters of such groups; (ii) the money laundering is of the proceeds of the predicated offences of terrorism, drug trafficking, international trafficking in human beings or in weapons and explosive substances; and (iii) the perpetrator is an habitual money laundering perpetrator. However the applicable penalty cannot exceed, in any case, the maximum limit of the penalty(ies) of the predicated offence(s) (article 3(2), (3), (6), (7) and article 4).

Legal entities' criminal liability is also provided for (article 5). Moreover, the law stipulates the exercise of extra-territorial jurisdiction over the offence of money laundering when its predicated offence was carried out outside the Macao SAR, provided that the referred predicated offence is also punishable under the law of the State or region with jurisdiction over that offence (article 3(4)).

Violation of the obligations imposed by the law is an administrative offence punishable by fines ranging from 10,000 patacas to 500,000 patacas for natural persons and from 100,000 patacas to 5,000,000 patacas for legal entities. Whenever the economic benefit for the offender is more than half of the maximum fine, the maximum fine shall be increased to double the amount of the obtained benefit. Negligence is also punishable.

For further details, a copy of Macao SAR Law 2/2006 and Administrative Regulation 7/2006 in their official versions in the Chinese and Portuguese languages as well as their non-official translation into English are attached hereto (annex 2).

1.5 The Committee takes note of the information and statistics provided by China with regard to the submission of suspicious transaction reports (STRs) by financial institutions (fourth report, p.13). In order to assess the effectiveness of the financial system, the Committee would welcome updated information on the number of STRs received by China's financial intelligence units since the submission of the last report, the number of investigations and

prosecutions initiated as a result of these reports and the outcome thereof as well as the laws and regulations which provided a basis for this action.

Between August 2004 and December 2005, a total 283,400 suspicious transactions were reported to China's financial intelligence units. The People's Bank of China transferred about 1,500 suspected money laundering cases to the public security authorities. The relevant laws and regulations include the Law of the People's Republic of China on the People's Bank of China, Regulations on the Transfer of Suspected Criminal Cases by Administrative Law Enforcement Organs, Rules for Anti-Money Laundering by Financial Institutions, Administrative Rules for the Reporting by Financial Institutions of Large-value and Suspicious RMB Payment Transactions, and Administrative Rules for the Reporting by Financial Institutions of Large-Value and Suspicious Foreign Exchange Transactions.

In the Hong Kong SAR, Section 12 of the United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) and section 25A of the Organized and Serious Crimes Ordinance (Cap. 455) require a person who knows or suspects that any property is terrorist property, or the proceeds of drug trafficking or an indictable offence, to disclose such information to the law enforcement agencies in Hong Kong. The Hong Kong SAR Government's Joint Financial Intelligence Unit received, in 2004 and 2005, respectively, 14,029 and 13,505 STRs. The details are tabulated as follows:

STRs	*2004*	*2005*
From banks	13,570	12,449
From the insurance sector	144	560
From money remittance/transfer services/exchange agents	132	268
From other financial intermediaries and other sectors	183	228

Out of the total reports in 2004 and 2005, 1,039 and 663 respectively were further investigated, 40 and 58 persons respectively were prosecuted and among them, 21 and 17 respectively were convicted of money laundering offences. There were no terrorism-related offences among these cases.

1.6. The Committee would like to know whether China's FIUs (including those of the Hong Kong and Macao SARs) have signed any agreements or memorandums of understandings on sharing information with foreign FIUs.

To date, China has signed anti-money laundering information exchange agreements and memorandums of understanding with Georgia, the Republic of Korea and the Russian Federation.

In 2005, the Hong Kong SAR Government signed two memorandums of understanding with the FIUs of Australia and the Republic of Korea respectively on the sharing of information.

The Macao SAR Government is preparing to establish a Financial Intelligence Unit in the Region. Furthermore, article 8(2) of the above-mentioned Law 2/2006 establishes that the competence to collect, analyze and provide information on compliance with the obligations set forth in article 7(1) of that law is to be conferred

on an entity to be created or that already exists. Paragraph 3 of article 8 lists the powers that such entity is to have for the exercise of its functions. Article 7 of Administrative Regulation 7/2006 stipulates the obligation of reporting to that entity all suspicious transactions within two working days after they were carried out; pending the concrete definition of that entity, such reports are submitted to the Judiciary Police.

A working group (consisting of representatives from several Macao SAR Government entities and departments) is studying the mechanisms for dealing with this issue. In this context, it should be recalled that the Macao SAR is a full member of the Asia-Pacific Group on Money Laundering (APG); the working group is therefore also studying better ways to comply with the Financial Action Task Force on Money Laundering (FATF)'s Forty Recommendations on the Control of Money Laundering and Nine Special Recommendations on Terrorist Financing.

1.7 With regard to the freezing and seizure of funds, the Committee would like to know under what circumstances China's criminal law permits the confiscation of terrorist funds without prior identification, prosecution or conviction of any individual terrorist. Is there a procedure according to which the Chinese authorities are able to freeze assets at the request of another State? What is the standard of proof needed to establish a link between the funds and the terrorist group or activity in question?

Under the Criminal Law of the People's Republic of China, terrorist funds are confiscated after the criminal suspect in question is convicted and the court rules that his or her assets be confiscated. According to provisions on criminal judicial assistance in the relevant laws and regulations of China and the treaties China has signed with other countries on criminal judicial assistance, other countries may request criminal judicial assistance from China on crime information investigation and evidence collection.

The Committee would also welcome further information on the following points:

- **In its fourth report (p. 21), China states that "the Government of the Macao SAR is currently reviewing the need for supplementary regulations from the technical and policy standpoints, with a view to further standardizing the task of freezing assets". Have there been any new developments on this matter?**

Having conducted a comparative law study, the Macao SAR Government has concluded that the existing legislation is adequate for meeting its needs in this regard.

- **In its fourth report (p. 19), China notes that the draft United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575), submitted to the Legislative Council of the Hong Kong SAR in May 2003, if adopted, would authorize the Secretary for Security to freeze the funds of terrorists and persons connected with terrorists, regardless of their origin. Has this draft Ordinance been adopted?**

The United Nations (Anti-Terrorism Measures) (Amendment) Ordinance 2004 was enacted in the Hong Kong SAR in July 2004. Please refer to the response to 1.3 above.

1.8 Could China inform the Committee of its efforts to ensure that casinos operating in the Macao SAR are not used for money laundering and the financing of terrorism?

With the adoption of the above-mentioned new Laws 2/2006 and 3/2006 and Administrative Regulation 7/2006, the Macao SAR has reinforced and updated the tools at its disposal to effectively fight money laundering and financing of terrorism, including within the gaming industry sector.

Taking into consideration the current conditions of the Macao SAR and its legal system, the two Laws and the Administrative Regulation were devised in order to achieve effective compliance with the mandatory requirements of applicable international treaties and instruments, as well as with international standards and practices commonly accepted worldwide, and in particular the FATF's Forty Recommendations and Nine Special Recommendations. The Macao SAR Government is making its best effort to establish the necessary measures, legislative, administrative or otherwise, for their implementation. One such measure was the confirmation, in a law on the Judiciary Police passed by the legislature on 30 May 2006, of the establishment of an additional department for anti-money laundering crimes investigation, specializing in the follow-up of money-laundering and similar crimes.

The gaming industry sector was carefully addressed in Law 2/2006. In so far as money laundering is concerned, both casino operators and gaming promoters — also known as junket promoters — are subject to the supervision of the Macao SAR Gaming Inspection and Coordination Bureau. Among the obligations specified in the law are requirements for them to: (i) identify their patrons whenever there is a suspicion that money laundering is occurring or whenever large money transactions are taking place (the precise threshold will soon be determined through guidelines to be issued by the Macao SAR Government competent authority(ties)); (ii) refuse any transaction involving participants who cannot be identified; (iii) report any suspicious transaction to the relevant Government authorities; (iv) keep all records for a reasonable period of time; and (v) refrain from informing the patron that suspicious transaction reports are being sent to the competent Government authorities (prohibition of disclosure).

Effectiveness of counter-terrorism measures

1.9 In order effectively to implement resolution 1373 (2001), the State should have in place effective and coordinated executive machinery and should develop and implement adequate national and international counter-terrorism strategies. Please explain how China's counter-terrorism strategy and policy deal with the following forms of counter terrorist activity:

- **Criminal investigation and prosecution;**
- **Inter-agency cooperation;**
- **Physical protection of potential terrorist targets;**
- **Strategic analysis and forecasting of emerging threats;**
- **Analyses of the efficiency and effectiveness of counter-terrorism legislation and relevant legislative amendments;**

- **Border and immigration controls; and**
- **Monitoring and prevention of trafficking in drugs, weapons, ammunition and explosives.**

The Committee would appreciate an outline of China's legislation, administrative procedures and best practices in these areas.

In the area of counter-terrorism, criminal investigation and prosecution are conducted in accordance with Criminal Procedure Law of the People's Republic of China.

Preventing and combating illegal migration

1. *Legislation*

Legislation to prevent and combat illegal migration is high on the agenda of the Chinese Government. China has stepped up the pace of relevant legislation in recent years in response to the activities of illegal migration in some areas. It has improved the legal framework for preventing and combating those activities by enacting a number of laws and regulations in this regard.

(1) Legislation to combat illegal migration has gradually been improved. In March 1994, the Chinese Government enacted the Supplementary Provisions of the Standing Committee of the National People's Congress on the Severe Punishment of the Crimes of Organizing or Transporting Other Person(s) to Illegally Cross the National Border (Frontier). In March 1997, the Chinese Government revised the Criminal Law of the People's Republic of China. The amended Criminal Law, which came into effect in October of that year, has an additional six articles, listing eight types of crime in this category, such as crossing the national border (frontier) illegally, organizing and transporting other person(s) to cross the national border (frontier) illegally, and assisting in such organization and transportation. It stipulates that those who illegally cross the national border (frontier) under aggravated circumstances are to be held criminally liable. It also has clear stipulations regarding acts of organizing and transporting other person(s) to cross the national border (frontier) illegally and of fraudulently obtaining travel documents for other person(s), providing counterfeit or altered travel documents, and selling travel documents, and provides for their severe punishment. This amended Criminal Law serves as a sound legal basis for combating illegal migration. articles 61 and 62 of the Law of the People's Republic of China on Administrative Penalties for Public Security, enacted on 1 March 2006, has clear provisions on the punishments to be imposed for assisting in the illegal organization or transportation of other person(s) across the national border (frontier), providing facilities for those who cross the national border (frontier) illegally and crossing the national border (frontier) illegally, when such acts do not rise to the level of criminality.

(2) Laws and regulations on entry-exit and border control have been strengthened. In November 1985, the Chinese Government enacted the Law of the People's Republic of China on Control of the Entry and Exit of Aliens and the Law of the People's Republic of China on the Control of the Exit and Entry of Citizens, providing a legal framework for the entry and exit of Chinese citizens and the entry into, exit from, transit through and residence in China of aliens. In September 1995, the Regulations of the People's Republic of China on Exit and Entry Frontier Inspection were introduced, giving clear provisions with regard to foreign citizens'

border entry, exit and transit and their residence and travel in China, as well as Chinese citizens' border exit on non-official business trips and their entry into and exit from China, and providing for punishment for violations of exit and entry control laws and regulations. The foregoing three laws are now being amended. The Nationality Law of the People's Republic of China, enacted by the Chinese Government in September 1980, sets clear conditions for the acquisition, restoration and renunciation of Chinese nationality and stipulates that the Chinese Government does not recognize dual nationality for any Chinese national. Such stipulations resolve the long-standing issue of dual citizenship and avoid, to a great extent, the occurrence of conflicting nationalities. The Chinese Government also gives high priority to legislation on border control. In May 2000, the Ministry of Public Security introduced the Measures on the Management of Ships in Coastal Areas to standardize border control along the coasts. In addition, the People's Congresses in border and coastal provinces and autonomous regions have drafted and enacted coast and border control regulations in accordance with national laws and regulations and in combination with their local conditions, further contributing to efforts to prevent and combat illegal migration.

China has now established the basic legal framework for curbing illegal migration through a combination of criminal laws and administrative regulations, providing a powerful legal instrument for preventing and combating illegal migration.

2. *Implementation*

The police of China have adopted comprehensive measures to strengthen the prevention, management and control of illegal migration. Efforts to investigate and dispose of relevant cases have been stepped up, and those organizing and transporting other person(s) across the national border illegally have been arrested and punished, thus effectively curbing the spread of human smuggling in all forms. In September 2003, the State Council held a special meeting to discuss and plan for the fight against illegal migration. The Ministry of Public Security launched a five-month nationwide campaign against human smuggling from October 2003 to March 2004, which greatly deterred such crimes. Statistics show that from 1999 to 2005, border agencies of the public security departments investigated and handled 7,693 cases of human smuggling, involving 27,480 persons. Among those involved, 4,847 persons who organized and transported other person(s) across the national border illegally were arrested, and 1,196 ringleaders of organized human smuggling were sentenced, of whom eight Chinese and foreign ringleaders were sentenced to life imprisonment. The arrested are handled in a differentiated manner according to their respective roles in the crime. For those who engage in human smuggling for the first time, education takes precedence and punishment is meted out as a necessary supplement. Recidivists face criminal charges in accordance with law, and those who organize and transport other person(s) across the national border illegally are firmly put under criminal prosecution according to law. In Fujian, Liaoning and Shandong provinces, new border-control detention and investigation centres have been established and equipped with daily necessities, entertainment facilities and closed-circuit monitors to ensure a good environment for living and study for these illegal border crossers during detention. Those under detention are obliged to receive education in law to improve their legal awareness. The centres also have exhibition facilities designed to reveal the horrendous crimes of ringleaders of organized human smuggling and the bitter suffering of the illegal emigrants. These

efforts have achieved publicity and educational goals and have received positive assessments by visiting delegations from many countries.

3. *Effective measures taken*

First: tightened control of coastal border areas. The border agencies of the public security departments have intensified border security through stronger prevention and management measures and by improving the management of outgoing ships, fishermen and incoming and docking fishing boats from Taiwan. Such efforts have effectively prevented Chinese citizens from illegally leaving China and foreign citizens from illegally entering China via the coastal borders.

Second: intensified entry and exit port inspection. Border checkpoints around the country have strengthened border inspection by focusing on fraudulent documents and cargo containers. Some border checkpoints have also tightened examination of containers on key shipping routes by sealing and labelling containers for anti-illegal migration purposes. The measures have effectively suppressed the use of containers for human smuggling.

Third: special crackdown campaigns and operations. Under the auspices of the State Council, the Ministry of Public Security launched a five-month special campaign from 10 October 2003 to 10 March 2004 to crack down on illegal border crossing activities. In March 2004, the Ministry of Public Security and six other ministries jointly launched Operation "Spring Thunder" to crack down on illegal intermediary agencies and illegal border crossing activities in the guise of labour services. At the same time, special campaigns and intensified administrative operations were launched nationwide.

Fourth: expanded case investigations. The scope of case investigations has been expanded in all localities; several major cases of illegal border crossing have been cracked, a number of organizations and criminal gangs engaged in human smuggling have been smashed, and those who organized and transported other person(s) across the national border illegally have been sentenced according to law.

Fifth: comprehensive and coordinated measures to crack down on illegal border crossing activities. In June 2004, the Central Committee for Comprehensive Management of Public Security sent out a circular, asking the committees for comprehensive management of public security at all levels in China to integrate anti-illegal border crossing operations into the comprehensive management mechanism of public security. As a result, Fujian, Liaoning, Jilin and other provinces adopted regulations and methods to include anti-illegal border crossing operations into their comprehensive management of public security, thus creating favourable conditions for combating illegal border crossing, under which the Government plays the leadership role, functional departments carry out their respective duties and the general public participates actively.

Sixth: active participation in international law-enforcement cooperation. The Chinese police see great value in international law-enforcement cooperation, and have signed treaties, agreements and memorandums with over 40 countries on cooperation in cracking down on illegal migration. They joined the competent departments of other countries for active and timely exchanges of intelligence and information on illegal migration and in investigating and dealing with individual cases. They went to the countries concerned to investigate cases and collect evidence, and engaged in international cooperation to seize international ringleaders

and flush out the masterminds of illegal migration. China also attended meetings of the International Criminal Police Organization (Interpol) "Operation Bridge" on illegal migration, meetings of international frontier police, and meetings of senior officials in the Asia-Pacific region on cracking down on human smuggling and illegal migration, in order to strengthen exchange and consultation with relevant countries and international organizations.

Monitoring and preventing the smuggling of drugs, weapons, ammunition and explosives

China Customs has an efficient and meticulous supervision system targeting a variety of dangerous goods, poisonous chemicals, firearms, and ammunition, to strictly prevent any articles which could be used for terrorism from entering or leaving Chinese territory. Since 2003, Customs authorities have detected 12 cases of weapons and ammunition smuggling, conducted criminal coercive measures against 13 suspects, and seized 190 firearms of all kinds and 3,097 bullets.

Criminalization and the criminal process

1.10 Are there any specific counter-terrorism measures aimed at criminal proceedings? Do special procedures apply to persons accused of terrorist offences during the arrest, detention and trial phases?

China has not set up special criminal proceedings on combating terrorist activities. This is one of the issues being studied as part of the process of drafting China's Anti-terrorism Law.

1.11 Is there a witness protection programme in place in China? If so, please describe any special features of that programme which apply to cases involving terrorism.

There is a witness protection programme in place in China. However, a specific witness protection programme which applies to cases involving terrorism is an issue being studied as part of the process of drafting China's Anti-terrorism Law.

Migration controls

1.12 Does China permit legal name changes without prior residency? If so, is some form of verification, such as fingerprinting or photographing individuals in their old identities, performed before new identity documents are issued?

As stipulated in the Regulations of the People's Republic of China on Residence Registration, Chinese citizens wishing to change their names must apply in person to the residence registration authority; names can be changed only after verification by the residence registration authority. The residence registration organs in China are the People's Committees at the town and township levels and the local police stations. Chinese citizens wanting to change their names on their passports must first apply to the local residence registration authority; upon approval, they must then apply to the exit and entry management department of the local public security organ having jurisdiction over their residence and show their residence registration records, on which the prior name change has been noted. Upon approval by the exit and entry management department of the local public security organ, the name change will be registered accordingly.

1.13 Pursuant to paragraph 2(c) and (g) of resolution 1373 (2001), the State should ensure the enforcement of effective immigration, customs and border controls in order to prevent the movement of terrorists, the establishment of safe havens and the commission of terrorists acts. The Committee would be grateful to receive details regarding:

- The extent of cooperation and coordination between the different agencies with border control responsibilities, including the modalities and tools used and examples of the results of any joint activity;
- The monitoring strategies and methods used to protect shipments entering and exiting China's territory, using all modes of transport, from acts of terrorism, and steps taken or envisaged with a view to implementation of the World Customs Organization (WCO) Framework of Standards to Secure and Facilitate Global Trade; and
- The mechanism and safeguards in place to detect and prevent the movement of terrorists across State borders at crossing where there is no official monitoring.

In June 2005, to cope with the challenge of securing and facilitating the international trade supply chain, the 105th/106th Council Sessions of the World Customs Organization (WCO) endorsed the Framework of Standards to Secure and Facilitate Global Trade (hereinafter "the Framework"). During the Sessions, China Customs signed a Letter of Intent to implement the Framework.

Since signing the letter of intent, China Customs has devoted special effort to publicizing and studying it. In accordance with the capacity-building programme drawn up by WCO for implementing the Framework, China Customs will participate in and promote its execution step by step, in order to improve Customs work efficiency and effectiveness.

The Hong Kong SAR Government is an associate member of the International Maritime Organization (IMO) and a contracting Government to the International Convention for the Safety of Life at Sea (SOLAS), 1974. It is fully committed to implementing the security measures for ships and port facilities adopted by the IMO in the context of the International Ship and Port Facility Security Code (ISPS Code), which was adopted by the SOLAS Conference in December 2002 and implemented on 1 July 2004.

Hong Kong Customs regularly works with the international law enforcement community and the stakeholders to secure the global supply chain and facilitate trade. In November 2005, Hong Kong Customs delivered to the World Customs Organization a written declaration of its intention to implement the Framework.

Hong Kong Customs benchmarks its risk assessments and intelligence analysis against the best practices in the international customs community, and strives to enhance its risk management capacity to combat terrorism and smuggling. It is equipped with automated systems to process cargo data/manifests for air, water and rail shipments to facilitate the targeting of high risk shipments. The Department also invests resources in non-intrusive equipment to protect shipments using speedy and prudent inspections.

Hong Kong Customs exchanges information with law enforcement agencies at the domestic and international levels and collect intelligence on all fronts to ensure that shipments enter and leave Hong Kong safely.

Effectiveness of international cooperation in criminal matters

1.14 Could China outline its principal domestic legal procedures for cooperation with other States in the areas of extradition and mutual legal assistance? Does the Government of the Hong Kong SAR have the authority to extradite terrorists in the absence of a formal agreement with the requesting State?

Cooperation between China and foreign countries in the area of extradition is conducted in accordance with extradition treaties, or on the basis of equality and reciprocity. In the absence of treaties, extradition is to be conducted through diplomatic channels, and the Ministry of Foreign Affairs of the People's Republic of China is the communicating authority thereof. Procedures for submission of extradition requests to China by foreign countries, and to foreign countries by China, are specified in Chapters II and III of the Extradition Law of the People's Republic of China (see annex 3).

Mutual legal assistance between China and foreign countries is conducted in accordance with treaties, or on the basis of equality and reciprocity. In the absence of treaties, mutual legal assistance is to be conducted through diplomatic channels. The specific procedures are as follows:

(1) *Requests made to the People's Republic of China for mutual legal assistance*

In the absence of bilateral treaties, a promise of reciprocity is required from the requesting party. After a preliminary examination by the Ministry of Foreign Affairs, the request will be transmitted to the Ministry of Justice, the Ministry of Public Security, the Supreme People's Procuratorate or other competent authorities according to specific situations. The relevant authorities will execute the request in a timely manner and transmit the result to the Ministry of Foreign Affairs. The Ministry of Foreign Affairs will then transmit the result to the requesting party.

(2) *Requests made to foreign States for mutual legal assistance*

A letter of request and relevant documents from the administrative department concerned will be submitted to the Ministry of Foreign Affairs. The Ministry of Foreign Affairs will then send a diplomatic note to the State to which the request is being made, with a promise of reciprocity. The result of the request, as communicated through diplomatic channels, will be transmitted by the Ministry of Foreign Affairs to the competent authority that made the request.

The extradition regime in the Hong Kong SAR is governed by the Fugitive Offenders Ordinance (Cap. 503). Cap. 503 enables Hong Kong to surrender terrorists who have committed criminal offences to an overseas jurisdiction on the basis of a bilateral agreement concluded between the Hong Kong SAR and that jurisdiction. The Hong Kong SAR Government is taking steps to draw up the necessary subsidiary legislation under Cap. 503 to implement the extradition requirements set out in the Bombings Convention, the Maritime Safety Convention and the Fixed Platform Protocol. The subsidiary legislation will enable the Hong Kong SAR to surrender fugitives who have committed the terrorist offences proscribed by the two Conventions and the Protocol to overseas jurisdictions which are parties to the Conventions and Protocol.

1.15 Could China provide information as to the number of extradition agreements that it has concluded with other States?

To date, China has concluded 26 treaties on extradition with the following foreign countries: Angola, Azerbaijan, Brazil, Belarus, Bulgaria, Cambodia, Kazakhstan, Kyrgyzstan, Laos, Lesotho, Lithuania, Mongolia, Namibia, Pakistan, the Philippines, Peru, the Republic of Korea, Romania, Russian Federation, South Africa, Spain, Thailand, Tunisia, Ukraine, the United Arab Emirates, and Uzbekistan.

Port Security

1.16 In the context of the measures established in the International Maritime Organization (IMO) International Ship and Port Facility Security Code (ISPS):

A. The Committee would welcome information on the measures that China has implemented in order to prevent unauthorized access to port facilities and to ships moored at such facilities.

Regular patrols and inspections by security personnel to prevent unauthorized persons or vessels from entering ports; surveillance of moored ships by means of sea and land patrols and CCTV; increased communication and cooperation with local public-security, maritime, border inspection, and customs authorities, as well as pilot stations and tugboat companies, with signing of agreements on security issues, as appropriate.

B. What safeguards has China put in place in order to verify the integrity of staff employed at port facilities and on board ships, both upon hiring and during employment?

Port-facility security training for port facilities staff prior to employment; use of non-transferable identification documents for port entry and exit. Loss of document must be reported to the department in charge of port facility security before a new document can be issued. Document must be surrendered to the port facility at end of employment. Information on port facility security is not to be leaked to unauthorized persons; staff engaged in port facility security wear uniforms with clear security insignia.

C. The Committee would be interested to learn the measures that China has put in place to respond to threats to, or breaches of, the security of port facilities and ship/port interfaces.

Regular inspection and maintenance to ensure that port security facilities and equipment are in good working condition; establishment of appropriate procedures for port facility security emergency response according to the type, function, and production technology of the port facility and the requirements of the ISPS Code, covering the following substantive areas:

(1) Procedure for handling explosive devices;

(2) Procedure for dealing with explosive attacks on docked container ships;

(3) Procedure for dealing with incidents of arson and vandalism;

(4) Personnel evacuation procedure.

Other emergency response procedures include:

(1) Procedure for responding to level-3 security directives issued by the Ministry of Communications;

(2) Procedure for coordinating with port security activities;

(3) Procedure for responding to the security alarm system for shipping within the port facility;

(4) Procedures for facilitating shore visits by crew members, personnel changes, and access to ships for visitors;

(5) Procedures and security measures for handling ship/port interface activities involving ships that have docked at ports in non-contracting countries, or ships that do not apply the ISPS Code.

D. The Committee would appreciate information on the drills carried out by China in order to test the effectiveness of security measures at port facilities and on the outcome of such drills.

Competent transport (port) authorities at all levels should carry out security drills at least once every six months; the interval between two drills may not exceed 18 months. Bodies responsible for organizing drills may be established on the basis of the size of the drills, and include groups for comprehensive coordination, public security and protection, project emergency response, medical assistance, information submission, material support, transportation, environmental management, fire-fighting control, and investigation and assessment. Drill organizers should draw up plans in cooperation with relevant bodies before drills. Drills may be conducted in three modes: training, testing, and combat-simulation, and should be evaluated upon completion; written reports should be submitted and records kept of the results. Port facility managers have raised their awareness through such drills and have taken effective measures to improve port facility security. However, some problems remain, e.g. outdated facilities and lack of expertise among staff.

1.17 Regarding the importance of identifying high-risk containers, the Committee takes note of the information provided by China and would appreciate an update on China's cooperation with the United States of America on the Container Security Initiative (CSI).

Following consultation and negotiation with the United States, China began operating a CSI pilot programme in Shanghai on 15th April 2005 and in Shenzhen on 27th June 2005.

Aviation Security

1.18 Pursuant to paragraph 2 of resolution 1373 (2001), States should prevent the movement of terrorists and the establishment of safe havens. The Committee notes that "the Hong Kong Immigration department has made preparations to participate in the advance Passenger Information system of the Asia-Pacific Economic Organization" (fourth report, p. 30). The Committee would like to receive an update on the outcome of these efforts. Have mainland China and the Macao SAR introduced this System?

In support of the Asia-Pacific Economic Cooperation initiative to develop an Advanced Passenger Information system, the Hong Kong Immigration Department introduced a pilot Advanced Passenger Processing Scheme jointly with a locally based airline beginning on 21 November 2005. The pilot phase, carried out in stages, is expected to last for 18 months. Under the Scheme, participating airlines are required to transmit data on arriving passengers, collected at check-in at the port of embarkation, to the Hong Kong Immigration Department. By processing passenger data in advance, immigration control can be affected proactively to identify suspicious passengers and facilitate appropriate actions. Cooperation from more airlines is being enlisted in order to extend the Scheme. A review will be conducted to evaluate the effectiveness of the Scheme before deciding whether and how to extend its coverage.

Neither the Macao SAR nor mainland China is yet participating in this System.

1.19 Does China intend to make contributions to the International Civil Aviation Organization (ICAO) Plan of Action to strengthen aviation security, including through security audits, urgent assistance to States, provision of training courses and of a range of guidance material, and various other projects?

China actively supports and participates in all action plans developed by ICAO for the purpose of enhancing international aviation security. The Civil Aviation Administration of China (CAAC) consented to an ICAO aviation security audit in May 2004, and will undergo a follow-up audit in June 2006. CAAC sent security experts to assist the civil aviation authorities of the Democratic People's Republic of Korea in June 2005 in carrying out an ICAO security audit; CAAC would also like to make full use of the Aviation Security Training Centre in Kunming for the active development of international training cooperation.

1.20 In its report (fourth report, p. 30), China states that ICAO plans to launch security audits of the international facilities at Beijing's Capital, Xian's Xianyang and Kunming's Wujiaba airports. The Committee would be pleased if China would share with it the difficulties and deficiencies identified in the audit, particularly with respect to the standards and practices detailed in Annex 17 to the Convention on International Civil Aviation.

With a view to remedying security shortcomings as quickly as possible, CAAC is willing to share information by appropriate means on problems and deficiencies found in the ICAO audit, on the condition that the security of such information be guaranteed.

Implementation of the 13 international counter-terrorism instruments

1.21 The Committee would appreciate information on the steps that China has taken or plans to take with a view to becoming a party to the following international counter-terrorism instruments: the International Convention for the Suppression of the Financing of Terrorism; the Convention on the Marking of Plastic Explosives for the Purpose of Detection and the International Convention for the Suppression of Acts of Nuclear Terrorism.

China is a State Party to 11 of the 13 international counter-terrorism instruments, including the International Convention for the Suppression of the Financing of Terrorism, ratified by the National People's Congress on 28 February

2006. China also signed the International Convention for the Suppression of Acts of Nuclear Terrorism on 14 September 2005, approval of which is currently under study. China is not yet a State Party to the Convention on the Marking of Plastic Explosives for the Purpose of Detection, but is studying the possibility of acceding to it.

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 What measures does China have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Pursuant to the Criminal Law of China, those who incite others to commit terrorist crimes should bear criminal liability. The Criminal Law also stipulates that acts of organizing, leading and participating in terrorist organizations and financially assisting terrorist activities constitute crimes. The International Convention for the Suppression of Terrorist Bombings and the Shanghai Convention on Combating Terrorism, Separatism and Extremism, both of which China has acceded to, carry clauses on the prohibition and prevention of inciting one or more terrorist activities.

2.2 What measures does China take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

The measures of border control as specified in the reply to item 2.3 below effectively deny safe haven to anyone guilty of incitement to commit a terrorist act or acts.

Paragraph 2

2.3 How does China cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

China exercises strict border control inspection. Those with fraudulent documents or insufficient reasons for visiting China are denied entry. To prevent the entry of international terrorists, China has established a name list of persons who are to be denied entry by visa control and entry inspection agencies.

In combating the use of fraudulent travel documents to carry out illegal exit and entry activities, China has increased investment in scientific research on the production of identity documents with enhanced forgery-resistant features; research on forgery detection receives special emphasis. Document study offices have been set up in the Ministry of Public Security and at key ports, and active cooperation is being conducted with relevant countries. To date, China has conducted such cooperation with immigration and police authorities of Australia, Canada, France, Germany, Japan, and the Netherlands. Such cooperation includes exchanging police

liaison officers, sharing techniques and experience in identifying fraudulent exit and entry documents, timely mutual notification of the anti-forgery features of new editions of passports as well as characteristics of the fraudulent documents seized at ports, and visiting the foregoing countries to study their forgery-detection networks, equipment and human-resources training.

In order to safeguard the security of China's borders and prevent the entry of terrorists and terrorist suspects into China, the Ministry of Public Security of the People's Republic of China has enhanced its cooperation with the Interpol General Secretariat in the areas of intelligence and information through China's National Interpol Central Bureau, with priority given to working with Interpol's database of Stolen and Lost Travel Documents (SLTD).

Paragraph 3

2.4 What international effort is China participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

China takes an active part in the dialogue among civilizations, and stands for the preservation of cultural diversity and better understanding, mutual respect and seeking common ground while respecting differences among civilizations and religions for the sake of harmonious coexistence and common prosperity. For example, from 2002 onward, the topic of "promoting dialogue among cultures and civilizations" has been on the agenda of several Asia-Europe (ASEM) Meetings; Chinese leaders attended and addressed such meetings on a number of occasions, which was highly valued by all sides.

China supports the proposal put forward by Indonesia at the First Asia-Pacific Economic Cooperation Senior Officials Meeting (APEC SOM I) meeting in early March 2006 calling for dialogue among different civilizations and faiths.

2.5 What steps is China taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

The Anti-terrorism Law, which is in the process of being drafted, will include relevant content.

Paragraph 4

2.6 What is China doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law, and humanitarian law?

China has always held that counter-terrorism efforts should be based on the Charter of the United Nations and other universally recognized international law, including international human rights law, refugee law and humanitarian law.

3. Assistance and guidance

China appreciates the efforts and recommendations of the Committee and hopes the Committee and other countries and international organizations can provide technical assistance to or communicate with China in the following fields:

As the anti-money-laundering, criminal-investigation and terrorism-financing analysis abilities of the financial investigation offices of some Chinese local public security organs need to be enhanced, China looks forward to receiving assistance and personnel training arrangements from the Committee and other countries and organizations regarding methods of financial analysis and capital tracing, identification and freezing of criminal assets, and the handling of relationships between criminal law-enforcement agencies and financial intelligence agencies.

The Chinese Government hopes to exchange information and technical consultation with the United Nations and its related organizations, as well as other countries concerned, in building up the capacity of its "central authority" in mutual legal assistance in criminal matters. The Ministry of Justice of China has been designated as the central authority for China under 40 treaties on mutual legal assistance in criminal matters with foreign countries, such as Australia, Canada, France, Mongolia, the Russian Federation, the United States, and Viet Nam. Capacity-building and technical assistance in this area are extremely important and beneficial for enhancing China's efforts to develop effective and capable international mutual legal assistance and cooperation in criminal matters. The person to contact within the Ministry of Justice is as follows:

Mr. Gong Xiaobing, Director General,
Department of Judicial Assistance and Foreign Affairs,
Ministry of Justice of the People's Republic of China
Telephone:+86-10-65205234, Fax:+86-10-65205211,
Email: xmzhang@public3.bta.net.cn

Appropriate technical assistance is also needed in the area of setting up a risk assessment and threat management system in the aviation security field. China also welcomes any assistance in training instructors and sharing training materials to enhance its training capability in aviation security.